

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

ECF Case

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DONNA FEHN,

07 Civ. 8321 (WCC) (GAY)

Plaintiff,

- against -

**NOTICE OF MOTION TO  
DISMISS AND FOR  
LEAVE TO AMEND THE  
COMPLAINT**

GROUP LONG TERM DISABILITY PLAN FOR  
EMPLOYEES OF JP MORGAN CHASE BANK,  
JP MORGAN CHASE BANK, as Plan Administrator,  
HARTFORD LIFE AND ACCIDENT INSURANCE  
COMPANY, as Administrator/Fiduciary of the Plan,  
KRISTA DUDECK, Individually, DANIEL BERTA,  
Individually, KARA MORETT, Individually,  
and DESMOND "Doe," Individually,

Defendants.  
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**PLEASE TAKE NOTICE** that, upon the annexed Affidavit of William D. Frumkin, Esq., sworn to on the 6th day of February, 2008, and accompanying Memorandum of Law in Support, dated February 6, 2008, plaintiff will move in the United States District Court for the Southern District of New York, at the United States Courthouse, located at 300 Quarropas St., Room 630, White Plains, New York 10601, on March 10, 2008 or a date to be set by the Court, for an order and judgment, pursuant to Rule 12(b)(6) of the Federal Rules of Civil Procedure, dismissing the JPMC Defendants' Counterclaim in its entirety with prejudice for failure to state a claim and for an order

pursuant to Rule 15(a) of the Federal Rules of Civil Procedure, granting plaintiff leave to file an amended complaint to include a claim for retaliation and interference under ERISA §510, a copy of which is annexed hereto.

Dated: White Plains, New York  
February 6, 2008

Yours, etc.,

**SAPIR & FRUMKIN LLP**

By: /s/ William D. Frumkin  
William D. Frumkin (WF 2173)  
Sapir & Frumkin LLP  
Attorneys for Plaintiff  
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To: Stacey L. Blecher, Esq.  
Attorneys for JPMorgan Chase Defendants  
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New York, New York 10081  
(212) 552-3814

Michael H. Bernstein  
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Attorneys for Defendant Hartford Life and Accident Insurance Company  
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**CERTIFICATE OF SERVICE**

I hereby certify that I am not a party to this action and am over 18 years of age. I further certify that on February 6, 2008, a copy of NOTICE OF MOTION TO DISMISS AND FOR LEAVE TO AMEND THE COMPLAINT was filed electronically. Notice of this filing will be sent by operation of the Court's electronic filing system to all parties indicated on the electronic filing receipt including:

Stacey L. Blecher, Esq.  
One Chase Manhattan Plaza, 26<sup>th</sup> Floor  
New York, New York 10081  
Attorneys for JPMorgan Chase Defendants

Michael H. Bernstein  
Sedgwick, Detert, Moran & Arnold LLP  
125 Broad Street  
New York, New York 10004-2400  
Attorneys for Defendant Hartford Life and Accident Insurance Company

Parties may access this filing through the Court's electronic filing system

/s/ Rachel L. Horton  
Rachel L. Horton